

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
WESTERN DISTRICT

CIVIL ACTION NO. 04-30172-MAP

ROBERT DADE,)
Plaintiff)
)
vs.)
)
BOLAND BUILDERS, INC.,)
THOMAS M. BOLAND, STUART JONES)
AND MARY ROSE JONES,)
Defendants)

DEFENDANTS, BOLAND BUILDERS, INC. AND THOMAS M. BOLAND'S,
ANSWER AND DEMAND FOR TRIAL BY JURY

AS TO INTRODUCTION

The defendants, Boland Builders, Inc. and Thomas M. Boland, admit that the plaintiff entered into an agreement with the defendant, Boland Builders, Inc., to install a metal roof at the home of the defendants, Stuart and Mary Rose Jones. The defendants deny the remaining allegations contained in the Introduction paragraph particularly to the extent that they allege any wrongdoing on the part of said defendants.

AS TO JURISDICTION

The defendants, Boland Builders, Inc. and Thomas M. Boland, deny that the amount in controversy exceeds \$75,000 but neither nor deny the remaining allegations contained in the paragraph entitled "Jurisdiction".

AS TO PARTIES

1. The defendants, Boland Builders, Inc. and Thomas M. Boland, neither admit nor deny the allegations contained in paragraph 1 of the plaintiff's complaint as they are without knowledge

or information sufficient to form a belief as to the truth of the allegations contained therein and leave the plaintiff to his burden of proof.

2. The defendants, Boland Builders, Inc. and Thomas M. Boland, neither admit nor deny the allegations contained in paragraph 2 of the plaintiff's complaint as they are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and leave the plaintiff to his burden of proof.

3. The defendants, Boland Builders, Inc. and Thomas M. Boland, admit the allegations contained in paragraph 3 of the plaintiff's complaint.

4. The defendants, Boland Builders, Inc. and Thomas M. Boland, neither admit nor deny the allegations contained in paragraph 4 of the plaintiff's complaint as they are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and leave the plaintiff to his burden of proof.

5. The defendants, Boland Builders, Inc. and Thomas M. Boland, neither admit nor deny the allegations contained in paragraph 5 of the plaintiff's complaint as they are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and leave the plaintiff to his burden of proof.

AS TO STATEMENT OF FACTS

6. The defendants, Boland Builders, Inc. and Thomas M. Boland, neither admit nor deny the allegations contained in paragraph 6 of the plaintiff's complaint as they are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and leave the plaintiff to his burden of proof.

7. The defendants, Boland Builders, Inc. and Thomas M. Boland, admit the allegations contained in paragraph 7 of the plaintiff's complaint.

8. The defendants, Boland Builders, Inc. and Thomas M. Boland, admit the allegations contained in paragraph 8 of the plaintiff's complaint.

9. The defendants, Boland Builders, Inc. and Thomas M. Boland, neither admit nor deny the allegations contained in paragraph 9 of the plaintiff's complaint as they are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and leave the plaintiff to his burden of proof.

10. The defendants, Boland Builders, Inc. and Thomas M. Boland, deny the allegations contained in paragraph 10 of the plaintiff's complaint.

11. The defendants, Boland Builders, Inc. and Thomas M. Boland, say that the plaintiff was advised as to the work to be performed and further advised as to the location of the skylights prior to the time of his alleged fall.

12. The defendants, Boland Builders, Inc. and Thomas M. Boland, deny the allegations contained in paragraph 12 of the plaintiff's complaint.

13. The defendants, Boland Builders, Inc. and Thomas M. Boland, admit the allegations contained in paragraph 13 of the plaintiff's complaint.

14. The defendants, Boland Builders, Inc. and Thomas M. Boland, deny the allegations contained in paragraph 14 of the plaintiff's complaint.

15. The defendants, Boland Builders, Inc. and Thomas M. Boland, admit the allegations contained in paragraph 15 of the plaintiff's complaint.

16. The defendants, Boland Builders, Inc. and Thomas M. Boland, deny the allegations contained in paragraph 16 of the plaintiff's complaint.

17. The defendants, Boland Builders, Inc. and Thomas M. Boland, neither admit nor deny the allegations contained in paragraph 17 of the plaintiff's complaint as they are without knowledge

or information sufficient to form a belief as to the truth of the allegations contained therein and leave the plaintiff to his burden of proof.

18. The defendants, Boland Builders, Inc. and Thomas M. Boland, neither admit nor deny the allegations contained in paragraph 18 of the plaintiff's complaint as they are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and leave the plaintiff to his burden of proof.

AS TO COUNT I

19. The defendants, Boland Builders, Inc. and Thomas M. Boland, repeat and reallege their answers to the allegations contained in paragraphs 1 through 18 of the plaintiff's complaint and incorporate them herein by reference.

20. The defendants, Boland Builders, Inc. and Thomas M. Boland, deny the allegations contained in paragraph 20 of the plaintiff's complaint.

21. The defendants, Boland Builders, Inc. and Thomas M. Boland, deny the allegations contained in paragraph 21 of the plaintiff's complaint.

22. The defendants, Boland Builders, Inc. and Thomas M. Boland, deny the allegations contained in paragraph 22 of the plaintiff's complaint.

AS TO COUNT II

23. The defendants, Boland Builders, Inc. and Thomas M. Boland, repeat and reallege their answers to the allegations contained in paragraphs 1 through 22 of the plaintiff's complaint and incorporate them herein by reference.

24. The defendants, Boland Builders, Inc. and Thomas M. Boland, neither admit nor deny the allegations contained in paragraph 24 of the plaintiff's complaint as they are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and leave the plaintiff to his burden of proof.

25. The defendants, Boland Builders, Inc. and Thomas M. Boland, deny the allegations contained in paragraph 25 of the plaintiff's complaint.

26. The defendants, Boland Builders, Inc. and Thomas M. Boland, deny the allegations contained in paragraph 26 of the plaintiff's complaint.

AS TO COUNT III

27. The defendants, Boland Builders, Inc. and Thomas M. Boland, repeat and reallege their answers to the allegations contained in paragraphs 1 through 26 of the plaintiff's complaint and incorporate them herein by reference.

28. The defendants, Boland Builders, Inc. and Thomas M. Boland, neither admit nor deny the allegations contained in paragraph 28 of the plaintiff's complaint as they are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and leave the plaintiff to his burden of proof.

29. The defendants, Boland Builders, Inc. and Thomas M. Boland, deny the allegations contained in paragraph 29 of the plaintiff's complaint.

30. The defendants, Boland Builders, Inc. and Thomas M. Boland, deny the allegations contained in paragraph 30 of the plaintiff's complaint.

AS TO COUNT IV

31. The defendants, Boland Builders, Inc. and Thomas M. Boland, repeat and reallege their answers to the allegations contained in paragraphs 1 through 30 of the plaintiff's complaint and incorporate them herein by reference.

32. The defendants, Boland Builders, Inc. and Thomas M. Boland, neither admit nor deny the allegations contained in paragraph 32 of the plaintiff's complaint as they are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and leave the plaintiff to his burden of proof.

33. The defendants, Boland Builders, Inc. and Thomas M. Boland, deny the allegations contained in paragraph 33 of the plaintiff's complaint.

34. The defendants, Boland Builders, Inc. and Thomas M. Boland, deny the allegations contained in paragraph 34 of the plaintiff's complaint.

SECOND DEFENSE

The defendants, Boland Builders, Inc. and Thomas M. Boland, say that if they were negligent as alleged which they specifically deny, the negligence of the plaintiff was greater than the alleged negligence of the defendants and, therefore, the plaintiff cannot recover.

THIRD DEFENSE

The defendants, Boland Builders, Inc. and Thomas M. Boland, say that the plaintiff's own negligence contributed to the cause of the accident and, therefore, the recovery of damages, if any, must be reduced in accordance with the law.

FOURTH DEFENSE

The defendants, Boland Builders, Inc. and Thomas M. Boland, say that the accident as alleged in the plaintiff's complaint was not caused by any person for whose conduct the defendants are legally responsible.

FIFTH DEFENSE

The defendants, Boland Builders, Inc. and Thomas M. Boland, say that this action was not commenced within the time required by the laws made and provided therefor.

SIXTH DEFENSE

The defendants, Boland Builders, Inc. and Thomas M. Boland, say that due written notice of the time, place, and cause of the plaintiff's injuries was not given by the plaintiff to the said defendants, and as a result the defendants have been prejudiced.

SEVENTH DEFENSE

The plaintiff is not entitled to recover as the complaint does not set forth a claim upon which relief can be granted.

EIGHTH DEFENSE

The defendants, Boland Builders, Inc. and Thomas M. Boland, say that if plaintiff was injured as alleged, such was due to the acts or negligence of another, which constitute an intervening, superseding cause and, therefore, defendants are not liable.

THE DEFENDANTS, BOLAND BUILDERS, INC. AND THOMAS M. BOLAND,
HEREBY DEMAND A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

THE DEFENDANTS
BOLAND BUILDERS, INC. AND
THOMAS M. BOLAND

By /s/ Nancy Frankel Pelletier
Nancy Frankel Pelletier, Esq., of
Robinson Donovan, P.C.
1500 Main Street, Suite 1600
Springfield, Massachusetts 01115
Phone (413) 732-2301 Fax (413) 785-4658
BBO No.: 544402

CERTIFICATE OF SERVICE

I, Nancy Frankel Pelletier, Esq., hereby certify that on this 6th day of October, 2004, I served a copy of the above upon the parties in the action by mailing, postage prepaid, to counsel, Jack F. St. Clair, Esq., 73 Chestnut Street, Springfield, MA 01103; and Daniel H. Rider, Jr., Esq., 1500 Main Street, P.O. Box 15369, Springfield, MA 01115.

Subscribed under the penalties of perjury.

/s/ Nancy Frankel Pelletier
Nancy Frankel Pelletier, Esq.